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advocates of repression like Carafa (Paul IV.), Ghisleri (Pius V.), and Della Casa, authors of the Inquisition and the Index. The former, and not the latter, were those who steadied the Church of Rome and met the criticisms on discipline, if not on dogma, at the Council of Trent, ably assisted by the exponents of Christian piety as it had been known in an age long past, Theatines, Barnabites, Capucins, Jesuits. Protestant historians of the Reform have emphasized the agents of repression (in which they have included the Jesuits) and Catholic historians the moderate men and the Council of Trent, which crowned the work of these, however short it came of the ideas of Contarini and of Morone himself, leading figure there. Rodocanachi does not even let the word "Catholic Reform", or "Counter-Reform", pass his lips (or pen), though evidently, thinking of the Reform which was based on the controversy over Justification (so far as it was based on dogma at all), he has the conception of a Counter-Reform, of the Council of Trent as crowning the work of Contarini rather than of St. Francis. As his first part began with the reform in the spirit of Luther, so his second part with the response by Leo X. and his first successors, thus succeeding Philippson as the first part succeeded McCrie. The coherence that would have been given the first part by showing the relation of the reform programme in Italy to Valdes, who is acknowledged to be the one whose thought was of greatest influence, is aimed at in the second part by the chronological method already referred to. The success is as little in the one case as in the other.

Some typographical errors must be due to the calligraphy of the author: thus "Gamfi" for Garufi (p. 173, n. 1); "Gugliolono Grattaroli" for Guglielmo Grataroli (p. 514); "Nous" for Nores (p. 123, n. 1). The bibliography at the end of the volume attests a wide acquaintance with the printed literature of the subject—there is no reference to archive material; and that acquaintance appears almost exhaustive when it is seen that a host of monographs and articles cited in the text are not listed in the bibliography.

F. C. CHURCH.

The History of English Parliamentary Privilege. By CARL WITKE, Ph.D., Assistant Professor of American History in the Ohio State University. [Ohio State University Studies, Contributions in History and Political Science, no. 6.] (Columbus: the University. 1921. Pp. 212.)

PARLIAMENTARY privilege bulks large in the history of the English Parliament, and at times it plays a leading rôle on the wider stage of English constitutional history. All historians of the constitution have something to say of the various privileges that have been exercised by the houses of Parliament, and the authors of treatises on parliamentary practice and procedure describe them in some detail. Little attention

has been paid, however, to the legal conceptions underlying the claims of privilege. To explain these conceptions, to interpret basic principles, is the aim of the author of the present monograph, and it should be said at once that he has done a scholarly and valuable piece of work. His interest in the subject was aroused by the brief discussion of parliamentary privilege in Professor McIlwain's *The High Court of Parliament and its Supremacy*, and his study was begun in Professor McIlwain's seminar in the history of English legal institutions at Harvard.

Professor Wittke dissents strongly from the view expressed by Professor Josef Redlich in his *Procedure of the House of Commons* that the judicial claims of the Commons in modern times were in the nature of a cloak for their political ambitions. For the origin of parliamentary privilege we must go back, he thinks, to the time when there were several separate bodies of law in England, the *lex forestae* and the *lex mercatoria*, for example, each declared and enforced by its own appropriate courts. One of these "laws" was that which Coke called *lex et consuetudo parliamenti*, the law peculiar to the highest court in the realm, the High Court of Parliament, supposed to be known only to parliament men and to be declared by them exclusively. It was from this *lex parliamenti* that each house of Parliament claimed to derive its privileges. For centuries the conception prevailed that this law was distinct from, and superior to, the law of the land, and that what either house of Parliament did under it could not be questioned by any inferior court.

This doctrine has at times served the cause of popular freedom, but it was easily invoked to justify extensions of parliamentary privilege that were as serious a menace to individual liberty as was the doctrine of a *lex prerogativae* above the common law. The privilege of freedom from arrest and molestation was no doubt essential to the authority and dignity of the House of Commons, but the extension of the privilege to members' servants and estates became a source of grave injustice. It is difficult to regard as anything other than a public nuisance a privilege by virtue of which persons found trespassing on the lands of members of Parliament were punished by the House of Commons for breach of privilege and removed from the jurisdiction of the common-law courts. In days when kings were despotic and judges servile it may have been necessary in the interest of constitutional liberty for the House to determine cases of disputed elections, but this privilege wears a different aspect when it comes to be exercised by the party in control of the House for partizan purposes.

Professor Wittke's main theme is the relation of parliamentary privilege to the law of the land, and the most original and valuable chapters in his monograph are those that deal with the conflict between *lex parliamenti* and *lex terrae*. His analysis of cases involving privilege, extending from the Middle Ages to the nineteenth century, re-

veals the persistence, almost to our own time, of the idea of a separate law of Parliament, superior to the law of the land. The newer view of *lex parliamenti*, which regards it as a part of *lex terrae* and brings questions of parliamentary privilege within the jurisdiction of the common-law courts, was expressed by Chief Justice Holt in *Regina v. Paty* more than two hundred years ago, but it had to wait for its triumph till the great case of *Stockdale v. Hansard*. Even as late as the Bradlaugh incident, forty years ago, echoes of the old doctrine were heard in the course of debates in the House of Commons. As Professor Pollard has observed, parliamentary privilege was the last of the medieval liberties to be reduced by the common law.

In the organization of his material the author has been guided by his controlling interest. This is as it should be, but cases of parliamentary privilege which illustrate the conflict between the law of Parliament and the law of the land also exemplify the development of specific privileges. It would therefore have been desirable had the author, in the chapter in which he deals with the privileges of Parliament in general, referred more frequently to cases which he discusses in later chapters. There are a few errors of fact in the monograph, but they do not seriously impair its value as a contribution to English legal and constitutional history.

R. L. SCHUYLER.

Commons Debates for 1629, critically edited, and an Introduction dealing with Parliamentary Sources for the Early Stuarts. Edited by WALLACE NOTESTEIN, Ph.D., Professor of History in the University of Minnesota,¹ and FRANCES HELEN RELF, Ph.D., Professor of History in Lake Erie College. [Research Publications of the University of Minnesota, Studies in the Social Sciences, no. 10.] (Minneapolis: the University. 1921. Pp. lxvii, 304. \$4.00.)

THIS is a most welcome piece of pioneer work, a first step, it is to be hoped, in hastening the preparation of a new Parliamentary History, the need for which the editors not only reiterate but convincingly demonstrate. There exist masses of unprinted material absolutely essential for a true understanding of the course of events. The seemingly official character of the *Parliamentary History* and the *Journals* has in the past misled the unwary, like a certain European official who, because he wore a uniform, succeeded in pressing an occasional counterfeit coin in change upon unsuspecting travellers. For the short but momentous session of 1629 Professors Notestein and Relf "have tried to collect in one place all the yet unprinted materials" bearing on the proceedings of the House of Commons.

In an introduction of some fifty ample pages they have told us

¹ Now of Cornell University.